

be “clear and particular.” *See, e.g., C.R. Bard, Inc. v. M3 Sys., Inc., Am. Corp.*, 63 USPQ2d 1374 at 1387 (Fed. Cir. 2002).

In contrast, there is no “clear and particular” motivation in either the Stam et al. patent or the Turnbull et al. patent to obtain the subject matter of pending claim 4. Claim 4 recites a current controlling unit that reduces current supplied to a semiconductor light emitting element if the “speed of [a] vehicle is lower than a predetermined speed *and* temperature of [the] vehicular lamp is higher than a predetermined temperature.” Although the Stam et al. patent discloses increasing illumination range in proportion to vehicle speed (col. 1, lines 27-31, col. 2, lines 29-30), the patent clearly indicates that changing the illumination range prevents “*excessive glare* seen by drivers in front of the headlamps” (col. 1, lines 24-26). The Stam et al. patent does not disclose or suggest the headlamp temperature is in any way related to excessive glare produced by the headlamp or that the headlamp temperature is in any way related to the speed of the vehicle. Indeed, there is no disclosure or suggestion, at all, in the Stam et al. patent of the temperature of the headlamp. It follows that the Stam patent also does not disclose or suggest any motivation to modify, much less reduce, a current supplied to the headlamp when a “vehicle speed is lower than a predetermined speed *and* temperature of [the] vehicular lamp is higher than a predetermined temperature.”

In addition, although the Turnbull et al. patent discloses a temperature dependent current drive for LEDs (col. 31, lines 33-36), it does not disclose or suggest any relation between the headlamp temperature and the speed of the vehicle or even a relation between the current supplied to the headlamp and the speed of a vehicle. In fact, there is no disclosure or suggestion, at all, in the Turnbull et al. patent of the *speed or velocity* of a vehicle. Clearly, the Turnbull et al. patent lacks the motivation to combine the temperature dependent current drive with the features of the Stam et al. patent in order to obtain the present claim. Applicants submit that the proffered motivation to combine is not “clear and particular” and that the Office action merely used the pending application as a blueprint to piece together prior art to defeat patentability.

2) Furthermore, claim 4 recites additional features that are not disclosed or suggested by the Stam et al. patent or the Turnbull et al. patent. In particular, claim 4 recites reducing a current supplied to a semiconductor light emitting element if a vehicle speed is lower than a

“predetermined speed.” Although the Stam et al. patent discloses increasing “illumination range *in proportion* to vehicle speed” (col. 2, lines 29-30), it does not disclose or suggest reducing the current supplied to the headlamp when the speed is lower than a “predetermined speed.” By reducing current supplied to a light emitting element below a “predetermined speed,” the road may still be sufficiently illuminated at a range of speeds above the “predetermined speed.” That is to say, a driver may require maximum light output of the vehicular lamp for a range of speeds above the predetermined speed. This feature can, in some implementations, improve driver safety. In contrast, by increasing the illumination range *in proportion* to vehicle speed, as suggested by the Stam et al. patent, a vehicle may not provide the maximum illumination of the road ahead at the range of speeds required by the driver. In addition, the Turnbull et al. patent does not disclose or suggest, in any way, reducing a current supplied to a semiconductor light emitting element if a vehicle speed is lower than a “predetermined speed.”

3) Regarding claims 4, 7 and 9, the Office action alleges that the Stam et al. patent discloses the claimed “current controlling unit” for changing a current supplied to a semiconductor light emitting element “based on a speed of a vehicle” via the vehicle speed sensor 72 (pg. 2, Office action). This is incorrect. Although the Stam et al. patent discloses a vehicle speed sensor 72, it does not suggest or disclose that the speed measured by the sensor 72 is used to control the current supplied to the lamp. Instead, the Stam et al. patent clearly discloses on col. 12, lines 63-65 that the inputs from sensor 72 are used to “anticipate acceleration of controlled vehicle 20 to maintain the proper inclination for beam upper extent 194.” There is no disclosure or suggestion, at all, that the speed measured by sensor 72 is used to control current to a light emitting element.

At least for these reasons, claims 4, 7 and 9 should be allowed.

Claims 3, 5-6, 8 and 10-13 depend from claims 4, 7 and 9 and should be allowed for at least the same reasons.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or

Applicant : Hitoshi Takeda et al.
Serial No. : 10/788,881
Filed : February 27, 2004
Page : 4 of 4

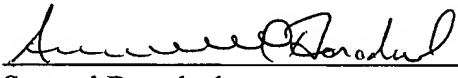
Attorney's Docket No.: 17268-002001 / KT-0029US

concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

No fee is believed due. However please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 5/18/06



Samuel Borodach
Reg. No. 38,388

Fish & Richardson P.C.
Citigroup Center
52nd Floor
153 East 53rd Street
New York, New York 10022-4611
Telephone: (212) 765-5070
Facsimile: (212) 258-2291